

TRAFLET & FABIAN

ATTORNEYS AT LAW

Carriage Court Two

264 South Street

MORRISTOWN, NEW JERSEY 07960

(973) 631-6222

ATTORNEYS FOR Defendant

Barclays Bank Delaware

THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SEAN C. KIELTY,

Plaintiff,

-vs-

BARCLAYS BANK DELAWARE,

Defendant.

:
:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIV. – SPECIAL CIVIL PART
: SMALL CLAIMS SECTION
: HUNTERDON COUNTY

:
:
: Docket No. SC-000159-12

:
:
: **NOTICE OF FILING OF NOTICE OF**
: **REMOVAL TO STATE COURT**

TO: Superior Court of New Jersey
Law Division – Special Civil Part
Small Claims Section
Hunterdon County Justice Center
65 Park Avenue
Flemington, NJ 08822

SIR/MADAM:

PLEASE TAKE NOTICE that on May 8, 2012, Defendant Barclays Bank Delaware, through its counsel, Traflet & Fabian, electronically filed a Notice of Removal Pursuant to 28

U.S.C. §1446(a) of the above-referenced action from the Superior Court of New Jersey, Law Division – Special Civil Part, Small Claims Section, Hunterdon County, in which it is now pending, to the United States District Court for the District of New Jersey. True and correct copies of the Notice of Removal Pursuant to 28 U.S.C. §1446(a) and the Affidavit of Filing and Service are attached hereto as **Exhibits A** and **B** respectively.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446, the filing of the Notice of Removal in the United States District Court for the District of New Jersey, together with the filing of that Notice with the Clerk of this Court, effects the removal of the above-styled action to the United States District Court, and this Court may proceed no further unless and until the case is remanded.

TRAFLET & FABIAN



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dalbanese@trafletfabian.com

Attorneys for Defendant
Barclays Bank Delaware

Dated: May 8, 2012

TRAFLET & FABIAN
Attorneys at Law
Carriage Court Two
264 South Street
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(973) 631-6222
Fax (973) 631-6226

EXHIBIT A

1. Barclays is a named defendant in the matter entitled Sean C. KIELTY v. Barclays Bank Delaware, Docket Number SC-000159-12, commenced in the Superior Court of New Jersey, Law Division – Special Civil Part, Small Claims Section, Hunterdon County by the filing of a Summons and Complaint (the “State Court Action”). A true and correct copy of the Summons and Complaint is attached hereto as **Exhibit A**.

2. The Complaint in the State Court Action was filed with the Clerk’s Office of the Superior Court of New Jersey, Law Division – Special Civil Part, Small Claims Section, Hunterdon County vicinage, on April 26, 2012. Petitioner/Defendant Barclays received the Summons and Complaint on May 1, 2012. Barclays’ notation of receipt is noted on the header of the Summons attached hereto as **Exhibit A**.

3. The Summons and Complaint represent all process and pleadings received by Barclays. To Barclays’ knowledge no hearings or other proceedings have taken place in this action.

4. The State Court Action seeks damages against Barclays for its alleged violations of the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.), the federal Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) and the federal Fair and Accurate Credit Transaction Act (enacted as an amendment to the Fair Credit Reporting Act). (*See*: Complaint attached hereto as **Exhibit A**). Therefore, the State Court Action is an action over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1681p.

5. Removal of the State Court Action is proper pursuant to 28 U.S.C. § 1441(b) because the State Court Action is founded on claims or rights arising under the Constitution, treaties or laws of the United States.

6. Barclays is filing this Notice of Removal within thirty (30) days of receipt by Barclays of the Summons and Complaint. The State Court Action may, therefore, be removed to this Court by Petitioner/Defendant pursuant to 28 U.S.C. § 1446(b).

7. Pursuant to 28 U.S.C. § 1441(a), venue of the removal action is proper in the United States District Court for the District of New Jersey because the county from which the State Court Action is being removed lies within this District.

8. Concurrent with the filing of this Notice with the Court, Petitioner/Defendant Barclays has also provided written notice of the filing of the instant Notice to the Plaintiff *pro se* at the address listed on the Complaint in the State Court Action and to the Clerk of the Court in the State Court Action, as required by 28 U.S.C. §1446(d).

WHEREFORE, Petitioner/Defendant Barclays requests that the foregoing action be removed from the Superior Court of New Jersey, Law Division – Special Civil Part, Small Claims Section, Hunterdon County, to the United States District Court for the District of New Jersey.

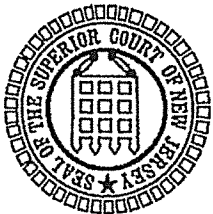
s/ Debra M. Albanese
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Attorneys for Petitioner/Defendant
Barclays Bank Delaware

Dated: May 8, 2012

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Attorneys at Law
Carriage Court Two
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EXHIBIT A



THE SUPERIOR COURT OF NEW JERSEY

Law Division, Special Civil Part

SMALL CLAIMS SUMMONS

YOU ARE BEING SUED!

IF YOU WANT THE COURT TO HEAR YOUR SIDE OF THIS CASE, YOU MUST APPEAR IN COURT. IF YOU DO NOT, THE COURT MAY RULE AGAINST YOU. READ ALL OF THIS PAGE AND THE NEXT PAGE FOR DETAILS.

In the attached complaint, the person suing you (who is called *the plaintiff*) briefly tells the court his or her version of the facts of the case and how much money he or she claims you owe. You are cautioned that if you do not come to court on the trial date to answer the complaint, you may lose the case automatically, and the court may give the plaintiff what the plaintiff is asking for, plus interest and court costs. If a judgment is entered against you, a Special Civil Part Officer may seize your money, wages or personal property to pay all or part of the judgment and the judgment is valid for 20 years.

You can do one or more of the following things:

1. *Come to court to answer the complaint.* You do not have to file a written answer, but if you dispute the complaint and want the court to hear your side of the case, you must appear in court on the date and at the time noted on the next page.

AND/OR

2. *Resolve the dispute.* You may wish to contact the plaintiff's lawyer, or the plaintiff if the plaintiff does not have a lawyer, to resolve this dispute. You do not have to do this unless you want to. This may avoid the entry of a judgment and the plaintiff may agree to accept payment arrangements, which is something that cannot be forced by the court. You will have to appear in court on the trial date unless a written agreement is reached and filed with the court.

AND/OR

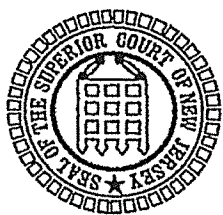
3. *Get a lawyer.* If you cannot afford to pay for a lawyer, free legal advice may be available by contacting Legal Services at 908-782-7979. If you can afford to pay a lawyer but do not know one, you may call the Lawyer Referral Services of your local county Bar Association at 908-735-2611.

If you need an interpreter or an accommodation for a disability, you must notify the court immediately.

La traducción al español se encuentra al dorso de esta página.

Amy Guenan

Clerk of the Special Civil Part



EL TRIBUNAL SUPERIOR DE NUEVA JERSEY
División de Derecho, Parte Civil Especial

NOTIFICACIÓN DE DEMANDA DE
RECLAMACIONES MENORES

¡LE ESTÁN HACIENDO JUICIO!

SI UD. QUIERE QUE EL TRIBUNAL VEA SU VERSIÓN DE ESTA CAUSA TIENE QUE COMPARECER EN EL TRIBUNAL. SI NO COMPARECE, PUEDE SER QUE EL TRIBUNAL DICTAMINE EN SU CONTRA. PARA LOS DETALLES, LEA TODA ESTA PÁGINA Y LA QUE SIGUE.

En la demanda adjunta, la persona que le está haciendo juicio (que se llama *el demandante*) da al juez su versión breve de los hechos del caso y la suma de dinero que alega que Ud. le debe. Se le advierte que si Ud. no viene al tribunal en la fecha del juicio, es posible que pierda la causa automáticamente y el tribunal puede dar al demandante lo que pide más intereses y costas. Si se registra una decisión en contra de Ud., un Oficial de la Parte Civil (Special Civil Part Officer) puede embargar su dinero, salario o bienes muebles para pagar toda o parte de la adjudicación y la adjudicación tiene 20 años de vigencia.

Usted puede escoger entre las siguientes opciones:

1. *Venir al tribunal para contestar la demanda.* No hace falta que presente una contestación escrita, pero si Ud. disputa la demanda y quiere que el juez vea su versión de la causa, tiene que comparecer en el tribunal en la fecha y a la hora notadas en la página que sigue.

ADEMÁS, O DE LO CONTRARIO, USTED PUEDE

2. *Resolver la disputa.* Ud. posiblemente quiera comunicarse con el abogado del demandante, o el demandante si el demandante no tiene abogado, para resolver esta disputa. No tiene que hacerlo si no quiere. Esto puede evitar que se registre una adjudicación y puede ser que el demandante esté de acuerdo con aceptar un convenio de pago lo cual es algo que el juez no puede imponer. Tendrá que comparecer en el tribunal en la fecha del juicio a menos que se llegue a un acuerdo escrito que se registra en el tribunal.

ADEMÁS, O DE LO CONTRARIO, USTED PUEDE

3. *Conseguir un abogado.* Si Ud. no tiene dinero para pagar a un abogado, es posible que pueda recibir consejos legales gratuitos si se comunica con Servicios Legales (Legal Services) al 908-782-7979. Si tiene dinero para pagar a un abogado pero no conoce ninguno puede llamar a Servicios de Recomendación de Abogados (Lawyer Referral Services) del Colegio de Abogados (Bar Association) de su condado local al 908-735-2611.

Si necesita un intérprete o alguna acomodación para un impedimento, tiene que notificárselo inmediatamente al tribunal.

Secretario de la Parte Civil Especial

FORM B
SMALL CLAIMS SUMMONS AND RETURN OF SERVICE

Plaintiff or Plaintiff's Attorney Information:

Name: SEAN C. KIELTY 2012 APR 9 PM 12:24
Address: P.O. Box 2282
Flemington, NJ 08822
Phone: (908) 246-6613

SEAN C. KIELTY

versus

Plaintiff(s)

Barclays Bank Delaware

Defendant(s)

Defendant Information:

Name: Barclays Bank Delaware
Address: PO Box 8803
Wilmington, DE 19899-8803
Phone: (866) 419-0881

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, SPECIAL CIVIL PART

Hunterdon

COUNTY

65 Park Ave

Flemington, NJ 08822

Docket Number: SC 159-12
(to be provided by the court)

Civil Action

SUMMONS

(Check one): Contract Tort

Demand Amount: \$ 3,000.00
Filing Fee: \$ 15.00
Service Fee: \$ 7.00
Attorney's Fees: \$ 500.00
TOTAL: \$ 3,522.00

YOU MUST APPEAR IN COURT ON THIS DATE May 14, 2012 AND TIME: 9:00 at ☒ a.m. ☐ p.m.,
OR THE COURT MAY RULE AGAINST YOU.

REPORT TO:

Courtroom 5

RETURN OF SERVICE (For Court Use Only)

COURT OFFICER'S RETURN OF SERVICE

IF SERVED BY COURT OFFICER

Docket Number: _____
Date: _____ Time: _____ WM _____ WF _____ BM _____ BF _____ OTHER _____
HT _____ WT _____ AGE _____ HAIR _____ MUSTACHE _____ BEARD _____ GLASSES _____
NAME: _____ RELATIONSHIP: _____
Description of Premises _____

I hereby certify the above to be true and accurate:

Court Officer

IF SERVED BY MAIL:

I, _____, hereby certify that on _____, I mailed a copy
of the within summons and complaint by regular and certified mail-return requested.

DCD
Employee Signature

FORM A
SMALL CLAIMS COMPLAINT (Contract, Security Deposit, Rent, or Tort)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
SMALL CLAIMS SECTION

SEAN C. KIELTY, Esq.
Attorney for Plaintiff (if any)
Address P.O. Box 2282, Flemington, NJ 08822
Telephone No. _____

Hunterdon County
Docket No. SC 159-12
(to be provided by the court)

From Plaintiff
Sean C. Kielty

Name _____
Address 49 Coppermine Village, Flemington, NJ 08822
lawoffice@seankielty.com
Telephone No. (908) 246-6613

CIVIL ACTION
COMPLAINT

To Defendant
Barclays Bank Delaware

Name _____
Address PO Box 8803
Wilmington, DE 19899-8803
Telephone No. (866) 419-0881

Check One - See Instruction A for Form A

- ☒ Contract
☐ Security Deposit
☐ Rent
☐ Personal Injury or Property Damage (other than motor vehicle)

COMPLAINT (See Instruction B for form A)

Demand: \$ 3,000.00 plus costs.

Type or print the reasons you, the Plaintiff(s), are suing the Defendant(s): Attach additional sheets if necessary.

Plaintiff alleges that Defendant, Barclays Bank Delaware, did violate his rights under the Fair Debt Collection Practices Act, FCRA 1681(e), specifically Section 623(a)(7) as amended by the Fair and Accurate Credit Transaction Act, which requires creditors to provide notification to the consumer 30 days prior to, and 30 days after negative information about the consumer is furnished to any credit reporting agencies, no fewer than 3 times. Each violation carries with it a penalty of up to \$1000, as such, Plaintiff is seeking \$3000 plus costs and reasonable attorney's fees.

The basis for this private civil action can be found in Carlson v. TransUnion LLC 259 F. Supp. 2d 517 (2003), in which the court concluded that sections 1681n and 1681o provide for private causes of action under the FCRA.

IMPORTANT: Plaintiffs and defendants must bring all witnesses, photos, and documents, and other evidence to the hearing. Subpoena forms are available at the Clerk's office to require the attendance of witnesses.

At the trial Plaintiff will require:

An interpreter ☐ Yes ☒ No Indicate Language: _____
An accommodation for disability ☐ Yes ☒ No Indicate Disability: _____

I certify that the matter in controversy is not the subject of any other court action or arbitration proceeding, now pending or contemplated, and that no other parties should be joined in this action.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

March 31, 2012
Date

SEAN CHRISTOPHER KIELTY, Esq.
Your Signature

SEAN CHRISTOPHER KIELTY, Esq.
Your Name Typed or Printed

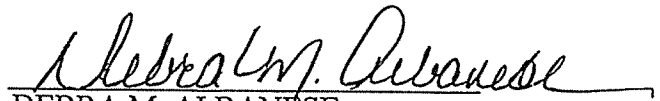
EXHIBIT B

2. On May 8, 2012, I caused to be forwarded by electronic filing for filing on May 8, 2012 with the Clerk of the United States District Court for the District of New Jersey a Notice of Removal Pursuant to 28 U.S.C. § 1446(a), in electronic form, with respect to this action.

3. On May 8, 2012, I also caused to be forwarded by overnight courier for filing on May 9, 2012 with the Clerk of the Court, Law Division – Special Civil Part, Small Claims Section, Superior Court of New Jersey, Hunterdon County, a Notice of Filing of Notice of Removal with attached Notice of Removal Pursuant to 28 U.S.C. § 1446(a).

4. On May 8, 2012, I also caused to be served upon Plaintiff *pro se*, Sean C. Kielty, a Notice of Filing of Notice of Removal pursuant to 28 U.S.C. §1446(d), which included a true copy of the Notice of Removal Pursuant to 28 U.S.C. § 1446(a) and all supporting documents via overnight courier for delivery on May 9, 2012, to the following address:

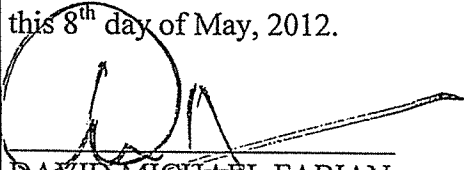
Sean C. Kielty
49 Coppermine Village
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(f) 973.631.6226
dalbanese@trafletfabian.com

Attorneys for Petitioner/Defendant
Equifax Information Services LLC

Sworn and subscribed to before me
this 8th day of May, 2012.



DAVID MICHAEL FABIAN
Attorney-at-law of the State of New Jersey

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Attorneys at Law
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